

## **PART I CHARTER AND RELATED SPECIAL ACTS**

### **Subpart A CHARTER\***

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**\*Editor's note:** Printed herein is the Charter of the City of Miami Beach, as adopted by referendum November 2, 1993, and effective on November 3, 1993. Amendments to the Charter are indicated by parenthetical history notes following amended provisions. The absence of a history note indicates that the provision remains unchanged from the original Charter. Obvious misspellings have been corrected without notation. For stylistic purposes, a uniform system of headings, catchlines and citations to state statutes has been used. Additions made for clarity are indicated by brackets.

**State law references:** Municipal home rule powers, F.S. ch. 166.

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## **AND POWER**

### **Sec. 1.01. Corporate existence; form of government; Charter.**

The City of Miami Beach (hereafter "City") in Dade County, Florida, which was created by the Florida Legislature, shall continue as a municipal corporation with a Commission-City Manager form of government as provided herein and with this document as the Charter for the City.

### **Sec. 1.02. Description of corporate boundary.**

The area described in Appendix A of this Charter shall constitute the corporate boundary of the City of Miami Beach.

### **Sec. 1.03. Powers of city.**

- (a) *General.* The City shall have all governmental, corporate, and proprietary powers to enable it to conduct municipal government, perform municipal functions, and render municipal services, and may exercise any power for municipal purposes except as expressly prohibited by law or this Charter.
- (b) *Alienability of property.* The only limitation concerning alienability of City-owned property is the restriction of the sale, exchange, conveyance or lease of five (5) years or longer (including option periods) of park, recreation, or waterfront property in the City of Miami Beach while it is being used for such public purpose, unless such sale, exchange, conveyance or lease is approved by a majority vote of the voters in a City-wide referendum. This provision shall be liberally construed in favor of the preservation of all park, recreation, and waterfront lands. This provision shall not be construed to apply to any valid written contractual commitments or bids or bonded indebtedness which commitments, bids or indebtedness existed prior to November 4, 1992. Further, this provision shall not apply to any City-owned educational facility or library property, any parking facility not located on park, recreation, or waterfront property or to any utility or access easements or right-of-ways, or to that triangular parcel of City-owned property known as Parcel 2 of South Pointe Park located within the Miami Beach Redevelopment Area, said parcel generally described as being 138.87 feet fronting on Biscayne Street with a northerly boundary of 265.43 feet adjacent to Block 8 of South Pointe Development company, and a Southeasterly boundary of 226.20 feet adjacent to Cook Inlet Region property.
- (c) The floor area ratio of any property or street end within the City of Miami Beach adjacent to the Atlantic Ocean, Government Cut, Indian Creek or Biscayne Bay shall not be increased by zoning, transfer, or any other means from its current zoned floor area ratio as it exists on the date of adoption of this Charter Amendment [November 7, 2001], including any limitations on floor area ratios which are in effect by virtue of development agreements through the full term of such agreements, unless any such increase in zoned floor area ratio for any such property shall first be approved by a vote of the electors of the City of Miami Beach. This Charter Amendment shall become effective on the day after its approval by the voters of the City of Miami Beach. No rights in derogation of the provisions of this Amendment under any ordinance or any other action of the Miami Beach City Commission between the time this measure is approved by the

Miami Beach City Commission for placement on the November 6, 2001 ballot and the adoption of this Amendment shall be enforced against the City of Miami Beach.

(Res. No. 97-22413, 6-4-97; Res. No. 98-22763, 6-3-98; Res. No. 2001-24539, 7-18-01)

#### **Sec. 1.04. Construction.**

The powers of the City shall be construed liberally in favor of the City, limited only by the United States and Florida Constitutions, general and special law, and specific limitations in this Charter.

The term "City Commission" includes the Mayor and the six (6) City Commissioners.

### **ARTICLE II. CITY COMMISSION**

#### **Sec. 2.01. Number and selection.**

The City Commission shall consist of six (6) City Commissioners and a Mayor who shall be elected at large. Each City Commissioner shall be a qualified elector of the City. City Commissioners shall be elected for groups numbered and designated I--VI. No candidates for the office of Commissioner shall be permitted to qualify for more than one (1) group, or for the office of Mayor.

Commissioners in groups numbered I, II and III shall be elected at the general election to be held on the first Tuesday in November, 1997 and at each general election each four (4) years thereafter. Commissioners in groups numbered IV, V, and VI shall be elected at the general election to be held on the first Tuesday in November, 1995 and at each general election each four (4) years thereafter. The Mayor shall be elected at the general election to be held on the first Tuesday in November, 1995 and at each general election each two (2) years thereafter.

A candidate must receive a majority of the votes cast to be deemed elected. If no candidate receives a majority of the votes cast, there will be a runoff election between the two candidates in each group receiving the highest number of votes; should a tie result, the outcome shall be determined by lot. This runoff election shall occur one week from the date of general election.

In the event that no candidate has qualified in any group, or for Mayor, a vacancy shall be deemed to have occurred, and shall be filled as provided by the Charter of the City of Miami Beach for the filling of a vacancy.

#### **Sec. 2.02. Term and compensation.**

The term of office of the Mayor shall be two (2) years. The term of office of the City Commissioners shall be four (4) years.

Commencing with the General Election in November 1997 (excluding individuals holding City of Miami Beach elective office prior thereto for their unexpired terms), the term limit for Miami Beach Commissioners shall be eight consecutive years and the term limit for Miami Beach Mayor shall be six consecutive years respectively, measured retroactively from their first elections said terms not including time served as a member of the City of Miami Beach Commission as a result of having filled a vacancy in the Commission pursuant to Section 2.07

for the period of occupancy for imposition of a transient rental tax as established by F.S. § 212.03 (as amended), provided that such additional one percent (1%) shall be used, subject to the rights of bondholders, (A) fifty percent (50%) for public incentives for convention center headquarters hotel development, and upon retirement of all debt related thereto, to be used as in (B) below, and (B) fifty percent (50%) for promotion of tourism related activities and facilities, and developing, improving and maintaining tourism related public facilities; provided that such additional one percent (1%) of tax shall not be imposed until such time as the City of Miami Beach has entered into an agreement with a developer for development of a convention center headquarters hotel; and provided further that the authority created pursuant to Section 8 of Chapter 67-930 shall have no right to receive any portion of such additional one percent (1%) of tax.

**Editor's note:** The resort tax in this section was authorized by Laws of Fla., ch. 67-930, which required this Charter provision and which general law of local application, Laws of Fla., ch. 67-930, is recognized and continued in F.S. § 125.0104(3)(b).

## **ARTICLE VI. ELECTIONS\***

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**\*State law references:** Florida Election Code, F.S. chs. 97--106.

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### **Sec. 6.01. Electors.**

Any person who is a resident of the City of Miami Beach, who has qualified as an elector of the State of Florida and who registers in the manner prescribed by law shall be a qualified elector of the City.

**State law references:** Registration of electors, F.S. § 97.105; qualification of electors, F.S. §§ 97.041, 166.032.

### **Sec. 6.02. Nonpartisan elections.**

All elections for the office of City Commission shall be conducted on a nonpartisan basis without any designation or political party affiliation.

### **Sec. 6.03. Qualifying.**

The City Commission shall cause to be placed on the ballot to be used in the general election the name of any qualified elector of the City who, within the four (4) consecutive days immediately following the first Monday of September prior to said general election, shall have paid to the City Clerk of the City of Miami Beach the sum equal to seven and one-half percent (7 1/2%) of the annual salary of the office to which he/she seeks election as a qualifying fee and shall have been photographed and fingerprinted by the identification bureau of the Police Department of the City, unless such person shall file with the City Clerk no later than the second day for qualifying as a candidate for such office, a petition approving his candidacy signed by sufficient qualified and registered voters to constitute not less than two percent (2%) of this number of such voters as the same shall be on the date sixty (60) days prior to the first day of qualifying as a candidate for office, and shall have taken, signed and subscribed to an

oath or affirmation in writing in which he/she shall state (1) the title of the office for which he/she is a candidate; (2) that he/she is a qualified elector of the City of Miami Beach, Florida; (3) his/her legal residence, by street and number; (4) that he/she is qualified under the ordinances (including Miami Beach City Code Chapter 38 governing "Elections") and Charter of the City of Miami Beach, Florida, to hold the office for which he/she is a candidate.

Such oath or affirmation shall be substantially in the following form:

**TABLE INSET:**

STATE OF FLORIDA	)	
		SS:
COUNTY OF DADE	)	

Before me, an officer authorized to administer oaths, personally appeared to me well known who, being sworn, says that he/she is a candidate for the office of City Commissioner (Group No. \_\_\_\_\_ (or Mayor) for the City of Miami Beach, Florida; that he/she is a qualified elector of said City; that his/her legal residence is: \_\_\_\_\_, Miami Beach, Dade County, Florida; that he/she is qualified under the ordinances (including Miami Beach City Code Chapter 38 governing "Elections") and Charter of said City to hold such office; and that he/she has paid the required qualification fee.

\_\_\_\_\_  
Signature of Candidate

Sworn to and subscribed before me this \_\_\_\_\_ day of \_\_\_\_\_ A.D., 19\_\_\_\_.

\_\_\_\_\_  
Authorized Officer

The City Commission shall, by ordinance, prescribe the manner of holding general and special elections not inconsistent with the provisions hereof, and shall, by ordinance or resolution, prescribe polling places in the various voting precincts in the City.

**Sec. 6.04. Vacancy in candidacy.**

If the death, withdrawal or removal of a qualified candidate for Miami Beach City Commission following the end of the qualifying period results in only one candidate remaining on the ballot for that office, there shall be one supplemental qualifying period of five (5) days beginning on the first day following the vacancy in candidacy. No further supplemental qualifying period shall thereafter be established at all if a vacancy in candidacy occurs within twenty-six (26) days prior to the date of the general election for the office of City Commissioner or Mayor. If within twenty-six (26) days prior to the date of the general election for the office of City Commissioner or Mayor, there is only one candidate on the ballot for an elected office, said candidate shall be declared elected and no election for that office shall be required.

**State law references:** Filling vacancy in candidacy, F.S. § 166.031(6).

**ARTICLE VII. INITIATIVE AND REFERENDUM**